

UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

RENE SAMUEL KENDALL,)	
)	
Plaintiff,)	
)	No. 3:11-CV-388
)	(CAMPBELL/SHIRLEY)
V.)	
)	
SEVIER COUNTY, CITY OF PIGEON FORGE,)	
RUSSELL PARKER, JACK BALDWIN, and)	
GARY CAMPBELL,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and Standing Order 13-02. This case came before the undersigned to address a Motion to Dismiss for Failure to Prosecute and Cooperate in Discovery [Doc. 51], filed by the Defendants. Attorney Steve Merritt was present representing the Plaintiff, and the Plaintiff was present in the courtroom. Attorney Reid Spaulding was present representing the City of Pigeon Forge, Russell Parker, Jack Baldwin, Gary Campbell, and Mariana Gutierrez. Attorney Rhonda Bradshaw was present representing Defendant Sevier County, Tennessee.

As stated at the hearing, the undersigned will issue a Report and Recommendation to the District Judge recommending that the Motion to Dismiss be granted in part and denied in part. Consistent with that ruling and to prevent further delay in this case, the Court **ORDERS** that the deposition of Rene Samuel Kendall commence at **9:30 a.m. on June 26, 2013**, at the offices of Watson, Roach, Batson, Rowell & Lauderback P.C., in Knoxville, Tennessee. The Plaintiff,

Plaintiff's counsel, and defense counsel assured the Court that this date and time were available for taking Plaintiff's deposition.

With regard to Plaintiff's responses to the written discovery propounded on him by the Defendants, counsel for the Plaintiff acknowledged that Plaintiff responded to Interrogatory #6, which requested production of tax returns for 2005-2010, by stating "Any tax returns for said period that plaintiff has are attached hereto." Plaintiff's counsel conceded at the hearing that no tax returns were attached to the responses, and counsel was not able to produce the tax returns at the hearing. It is **ORDERED** that Plaintiff's counsel ensure that Plaintiff's tax returns for years 2005, 2006, 2007, 2008, 2009, and 2010 are delivered to Reid Spaulding at the offices of Watson, Roach, Batson, Rowell & Lauderback P.C., by **5:00 p.m. on May 23, 2013**.

The Court admonished Plaintiff at the hearing that failure to comply with the dates or deadlines that have been laid out herein will result in a recommendation to the District Judge that this case be dismissed. The Court, accordingly, reiterates that failure to comply with this Memorandum and Order may result in a recommendation to the District Judge that: "designated facts be taken as established for purposes of the action"; Plaintiff be prohibited "from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence"; pleadings be struck in whole or part; the failure to obey the Court's Memorandum and Order be treated as **contempt of court**; and/or **this case be dismissed in whole or part**. See Fed. R. Civ. P. 37(b).

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge